

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA CLARA UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015110763

ORDER DENYING REQUEST FOR
CONTINUANCE AND DENYING
REQUEST TO SET STATUS
CONFERENCE

On December 15, 2015, Student filed a request to continue and a request to set a status conference. No response has been received from Santa Clara Unified School District.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) The Office of Administrative Hearings considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. Student contends that a tentative agreement has been reached which is subject to approval by Santa Clara's Board of Trustees. OAH will vacate hearing dates, not continue them, and schedule a status conference in cases where all

parties have fully executed a settlement agreement and the agreement is contingent upon a future approval by a school board. In order to have the dates vacated and a status conference set, the Petitioner must submit a request to vacate dates and set status conference along with the signature page(s) of the settlement agreement showing full execution. The proper documents were not submitted and therefore the request to set a status conference is denied. If a tentative settlement is reached and the settlement agreement is not executed by all parties, notwithstanding board approval, any party may request a continuance in order to finalize settlement, but that must be sent in as a separate motion to continue, and, if possible, as a joint request to continue. Therefore, the request to continue the matter and set a status conference is denied without prejudice.

IT IS SO ORDERED.

DATE: December 22, 2015

/s/

MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings